



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

June 18, 2025

By ECF

Hon. Katherine Polk Failla
United States District Judge
United States District Court
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: *Toaquiza v. Joyce*, No. 25 Civ. 4791 (KPF)

Dear Judge Failla:

This Office represents the government in the above-referenced habeas corpus action. I write respectfully to request an adjournment of the conference scheduled for Friday, June 20, at 11:30 a.m. to a time later in the day after 3:30 p.m., or another date convenient to the Court and to the parties. I make this request because I have a pre-existing Friday morning conflict that makes it difficult to attend the video conference at 11:30 a.m., which was set before the Court's scheduling order hit the docket last night.

Specifically, undersigned counsel has an in-person hearing in another habeas matter before the Honorable Jeannette A. Vargas at 10:30 a.m. on June 20, that may not conclude in time to attend a video conference at 11:30 a.m. In addition, I have a separate personal conflict that prevents me from participating in a conference between 1:30 p.m. and 3:30 p.m. Accordingly, to avoid the potential for conflicting court appearances and my own conflicts, I respectfully request that the Court adjourn the conference to at or after 3:30 p.m. on June 20.

Petitioner's counsel has not served this Office with the petition.¹ Earlier this morning, I reached out via email to counsel of record for petitioner to discuss a briefing schedule and to seek their consent on adjourning the conference. Although I did not receive a response from counsel of record in response, I soon received a phone call and spoke with Petitioner's counsel in his underlying immigration proceedings, John Garzon. Mr. Garzon informed me that his understanding was that Petitioner had terminated prior counsel, but that he was representing Petitioner only in immigration court. I asked Mr. Garzon, to the extent he had been in contact with counsel of record in the habeas matter, to ask them to contact me today.

Thereafter, I again reached out via email to Petitioner's counsel of record in this matter asking them to clarify whether they still represent Petitioner in this matter and also to advise whether they object to my adjournment request. I received a response (attached), stating that: "Mr. Garzon is correct, we no longer represent Mr. Toaquiza-Chusin in his Habeas matter. We

¹ Yesterday evening, the Court's law clerk notified this Office's Civil Chief of the order setting the initial conference.

apologize for this confusion, as we had initially transferred the case to NYLAG but were just informed this morning that he had opted instead to retain private counsel.” However, Mr. Garzon previously informed me that he had been retained only for the immigration court proceedings and not this habeas petition, and accordingly, the status of Petitioner’s representation in this matter is uncertain. Counsel of record did not object to adjournment, albeit with the caveat that they no longer represent Petitioner.

This is the government’s first request for an adjournment in this matter. Although the government proposed a briefing schedule to Petitioner’s counsel of record in the hope of obviating the need for a conference, given the uncertainty of his representation at this time, the government can address scheduling at the initial conference.

I thank the Court for its consideration of this request.

Respectfully submitted,

JAY CLAYTON
United States Attorney for the
Southern District of New York

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cc: Counsel of Record (by ECF)

Application GRANTED.

The conference scheduled for June 20, 2025, is ADJOURNED to **June 20, 2025, at 3:30 p.m.** The Court expect Petitioner's counsel of record, Ms. Tracey Kitzman and Mr. Peter Bryan Katzman to be in attendance at the conference.

The Clerk of Court is directed to terminate the pending motion at docket entry 7.

Dated: June 18, 2025
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE